

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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FAYE JOHANSON, Individually and as  
Administratrix of the Estate of Adam Murr,

Plaintiff,

v.

ORDER  
11-CV-228-A

COUNTY OF ERIE, et al.

Defendants.

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This case was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. § 636(b)(1). On December 17, 2012, Magistrate Judge Scott filed a Report and Recommendation, recommending that defendants' motion for summary judgment be granted as to plaintiff's federal civil rights claim and that the Court either grant summary judgment or remand plaintiff's state-law negligence claim to state court.

Plaintiff filed objections to the Report and Recommendation on December 28, 2012. Defendants filed a response thereto on January 16, 2013. Plaintiff filed a reply on January 24, 2013.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the parties' submissions, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendants' motion for summary judgment is granted as to plaintiff's Constitutional claim brought under 42 U.S.C. § 1983. The Court declines to enter summary judgment or to exercise the Court's supplemental jurisdiction under 28 U.S.C. § 1367 over plaintiff's state-law negligence claim. Therefore, pursuant to 28 U.S.C. § 1447(c), the Clerk of the Court shall remand the case to New York State Supreme Court, Erie County. The Clerk shall mail a certified copy of this Decision and Order to the clerk of the state court. The Clerk shall then take all steps necessary to close the case.

SO ORDERED.

*s/ Richard J. Arcara*  
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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: June 28, 2013